

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

KATHRYN MILLER,)	
)	
Plaintiff,)	
)	
v.)	No. 09-0856-CV-W-FJG
)	
RONALD J. LEVY, et al.,)	
)	
Defendants.)	

ORDER

Pending before the Court is Defendants State of Missouri, Department of Social Services, and Division of Youth Services' Motion to Dismiss (Doc. No. 4). Plaintiff filed no opposition to the pending motion.

After reviewing the pending motion, the Court finds that defendant's motion should be **GRANTED** for the reasons stated in defendants' motion (Doc. No. 4). In particular, plaintiff's Section 1983 claims (Count I of plaintiff's Complaint, Doc. No. 1) are not cognizable as states and state entities are not "persons" subject to suit under 42 U.S.C. § 1983. See Will v. Michigan Dept. of State Police, 491 U.S. 58, 71 (1989). Furthermore, plaintiff's state law claims as against the state and state entities for negligence and negligent infliction of emotional distress (Counts III and IV) are barred by the doctrine of sovereign immunity. See Fantasma v. Kansas City Bd. of Police Com'rs, 913 S.W.2d 388, 391 (Mo. App. W.D. 1996). Finally, this Court agrees with defendants State of Missouri, Department of Social Services, and Division of Youth Services that plaintiff has not pled facts against these defendants in the counts of the complaint; instead, the only facts are those pled in paragraphs 7, 8, 9, and 10 regarding these defendants being state entities and receiving certain federal funds. Plaintiff has failed to plead facts that "state a claim to relief that is plausible on its face." Bell Atlantic Corp. v. Twombly, 127 S.Ct. 1955, 1974 (2007).

Accordingly, Defendants' State of Missouri, Department of Social Services, and

Division of Youth Services' Motion to Dismiss (Doc. No. 4) is **GRANTED**. All claims against these defendants are dismissed.

IT IS SO ORDERED.

Date: 12/11/09
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge